

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GENTEX CORPORATION,

Plaintiff,

v.

BRAD SUTTER, PATRICK WALKO, BAE  
SYSTEMS AEROSPACE & DEFENSE  
GROUP, INC., BAE SYSTEMS AH INC.  
and BAE SYSTEMS SPECIALTY  
DEFENSE SYSTEMS OF  
PENNSYLVANIA, INC.,

Defendants.

CIVIL ACTION NO. 3:07-CV-1269

(JUDGE CAPUTO)

**MEMORANDUM ORDER**

In my Memorandum Order of October 19, 2009, the subject of the discovery of a summary was protected by the common interest privilege. In that Memorandum Order, I erroneously said the summary was "from Robert Mecredy of Armor to Joe Coltman of Simula the day before the merger agreement was signed." The summary in question was from Mr. Coltman to Mr. Mecredy and Ian Graham, Esquire, Armor's in-house counsel. Mr. Mecredy requested the summary at the behest of Mr. Graham, Armor's in-house counsel. The summary was prepared by Mr. Coltman and sent to Mr. Mecredy and Mr. Graham. It is my view that the summary is privileged, and there has been no waiver of the privilege. See, *SmithKline Beecham Corp. v. Apotex Corp.*, 232 F.R.D. 467, 476 (E.D. Pa. 2005).

Date: November 4, 2009



A. Richard Caputo  
United States District Judge